**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**CRIMINAL APPEAL No. 156 of 2001**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE A.M.KAPADIA**
**HONOURABLE MR.JUSTICE K.A.PUJ**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**CHUNIBHAI BHAYJIBHAI PATEL - Appellant(s)**
**Versus**
**STATE OF GUJARAT & 1 - Opponent(s)**

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**Appearance :**
THROUGH JAIL for Appellant(s) : 1,MS SADHANA SAGAR for Appellant(s) : 1,
MR. R.C.KODEKAR, APP for Opponent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA**
**and**
**HONOURABLE MR.JUSTICE K.A.PUJ**
**Date : 28/09/2006**

**ORAL JUDGMENT**

**(Per : HONOURABLE MR.JUSTICE A.M.KAPADIA)**

1. At the time of hearing of this Criminal Appeal, Mr. R.C.Kodekar, learned APP for the Respondent – State of Gujarat, upon written instructions in the form of jail sheet received from the Deputy Superintendent, Central Jail, Vadodara, states

that the appellant – Chunibhai Bhayjibhai Patel has died on 25.11.2003 during his treatment in SSG Hospital, Vadodara. He, therefore, urges that since his near relatives have not filed any application seeking leave to continue this Criminal Appeal, in terms of proviso to sub Section (2) of Section 394 of the Code of Criminal Procedure (“the Code” for short)this Criminal Appeal stands abated. He, therefore, urged to pass appropriate order abating the Criminal Appeal.

2. Ms. Sadhana Sagar, learned advocate of the Appellant, appointed by legal aid committee also states that since the appellant has died, appropriate orders abating the Criminal Appeal may be passed.

3. In view of the aforesaid state of affairs, since the near relatives of the appellant have not filed any application for leave to continue this Criminal Appeal, in terms of proviso to sub Section (2) of Section 394 of the Code, this Criminal Appeal stands abated. It is, therefore, disposed of as abated.

4. The jail sheet sent by the Deputy Superintendent, Central Jail Vadodara, shall be retained on record of the case.

(A.M.Kapadia,J)

(K.A.Puj,J)

Jayanti*